

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Strategic Acquisitions Corp. property

DEPARTMENT: County Attorney's Office

DIVISION: Litigation

AUTHORIZED BY: Lola Pfeil

CONTACT: Sharon Sharrer

EXT: 7257

MOTION/RECOMMENDATION:

Approve proposed pre-trial settlement relating to Parcel Numbers 226A/826B, 226B/226D/826C/826D, and 226C/826A on the East Lake Mary Boulevard Phase IIB project. The proposed settlement at \$493,000.00 includes land value, severance damage, statutory interest, statutory attorney's fees, expert fees, and cost reimbursements. Judge Dickey.

District 5 Brenda Carey

Bob McMillan

BACKGROUND:

see attached

STAFF RECOMMENDATION:

Staff recommends that the Board approve the proposed pre-trial settlement relating to Parcel Numbers 226A/826B, 226B/226D/826C/826D, and 226C/826A on the East Lake Mary Boulevard Phase IIB project. The proposed settlement at \$493,000.00 includes land value, severance damage, statutory interest, statutory attorney's fees, expert fees, and cost reimbursements.

ATTACHMENTS:

1. Strategic Acquisitions Corp. property

Additionally Reviewed By: No additional reviews



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Robert A. McMillan, County Attorney

FROM: Matthew G. Minter, Deputy County Attorney *Matthew G. Minter*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager / Public Works Department.
Antoine Khoury, P.E. / Assistant County Engineer / Engineering Division *AIK 8-18-08*

DATE: August 15, 2008

RE: Settlement Authorization
East Lake Mary Boulevard Phase IIB
Parcel Nos. 226A/826B, 226B/226D/826C/826D and 226C/826A
Owner: Strategic Acquisitions Corp.
Seminole County v. Strategic Acquisitions Corp., et al.
Case No. 03-CA-2311-13-W

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel Nos. 226A/826B, 226B/226D/826C/826D and 226C/826A. This is the last group of parcels from the East Lake Mary Boulevard Phase IIB project. The case was set for trial on August 18, 2008, and settlement was reached after completion of pre-trial depositions. The proposed settlement at the total recommended sum of \$493,000.00 is inclusive of all land value, severance damage, statutory interest, statutory attorney's fees, expert fees and cost reimbursements. The total settlement authorization is allocated as follows:

\$360,000.00	land value, severance damage, and statutory interest
\$ 48,000.00	statutory attorney's fee; and
<u>\$ 85,000.00</u>	cost reimbursements
<u>\$493,000.00</u>	Total

I. THE PROPERTY

A. Location Data

Parcel Nos. 226A/826B The subject parcel is located along the east side of Cameron Avenue south of SR46 and north of Moores Station Rd.

Parcel Nos. 226B/226D/826C/826D. The subject parcel is located along the north side of unimproved Jordan Road.

Parcel Nos. 226C/826A. The subject parcel is located at the northeast corner of Beardall Avenue and Bridges Road

Location maps are attached as Composite Exhibit A.

B. Property Address

The referenced properties are vacant and, therefore do not have assigned addresses. Parcel sketches are attached as Composite Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2003-R-47 on February 11, 2003 authorizing the acquisition of Parcel Nos. 226A/826B, 226B/226D/826C/826D and 226C/826A. The East Lake Mary Boulevard Phase IIB road improvement project was found to be necessary, served a public purpose, and was in the best interests of the citizens of Seminole County. The Order of Take occurred on November 25, 2003. Seminole County obtained title to Parcel Nos. 226A, 226B, 226C and 226D, and the right to permanent use of Parcel Nos. 826A, 826B, 826C and 826D, on December 4, 2003, the date of deposit of the good faith amounts for the Parcels.

III ACQUISITIONS AND REMAINDER

A. Parcel Nos. 226A/826B:

1. BEFORE – In the Before, the property consists of a rectangular shaped parcel of land, otherwise known as the parent tract for Parcel No. 226A. The parent tract is approximately 9.9877 acres and includes 330.11 feet of paved frontage along the eastern side of Cameron Avenue. The subject site includes native vegetation, an active citrus grove and a metal shed. The Before property is zoned Agriculture, AG with an Industrial Future Land Use.

2. TAKING – The acquisition consists of 1.0247 acres of land area for Parcel No. 226A. The taking also includes Parcel No. 826B which is a Permanent Drainage Easement for access and drainage that contains a total of 3,482 square feet.

3. AFTER – In the After, the remainder property consists of 8.9630 acres.

B. Parcel Nos. 226C/826A:

1. BEFORE – In the Before, the property consists of a rectangular shaped parcel of land, otherwise known as the parent tract for Parcel No. 226C. The parent tract is approximately 9.3867 acres and includes 643.77 feet of frontage along the eastern side of Beardall Avenue and 635.70 feet of unpaved frontage along the north side of Bridges Road. The subject site is vacant except for fencing. The Before property is zoned Agriculture, AG with an Airport Industry & Commerce (AIC) Future Land Use.

2. TAKING – The acquisition consists of 113 square feet of land area for Parcel No. 226C. The taking also includes Parcel No. 826A for drainage and access which contains 9,606 square feet.

3. AFTER – In the After, the remainder property consists of 9.3841 acres.

C. Parcel Nos. 226B/226D and 826C/826D:

1. BEFORE – In the Before, the property consists of a rectangular shaped parcel of land, otherwise known as the parent tract for Parcel Nos. 226B and 226D. The parent tract is approximately 21.7632 acres and includes 446.04 feet of unpaved frontage along the north side of Jordan Avenue. The subject site is vacant except for native vegetation, an active citrus grove, and fencing. The Before property is zoned Agriculture, AG with an Airport Industry & Commerce (AIC) Future Land Use.

2. TAKING – The acquisition consists of 2.1184 acres of land area for Parcel No. 226B. The taking also consists of 2.8788 acres for Parcel No. 226D for a retention pond. The total taking for both parcels equals 5.0672 acres. In addition, the taking includes a permanent easement for Parcel Nos. 826C and 826D for access and drainage containing 13,879 and 12,174 square feet respectively.

3. AFTER – In the After, the remainder property consists of 16.6960 acres.

IV APPRAISED VALUES

A. Parcel Nos. 226A/826B

The County's original report dated February 13, 2003, was prepared by The Spivey Group, Inc., and reported full compensation to be \$32,200.00, allocated

\$30,600.00 for Parcel No. 226A and \$1,600.00 for Parcel No. 826B. The appraisal was updated on October 10, 2003, for the order of take hearing and opined the values to be \$35,800.00 Parcel No. 226A and \$1,900.00 for Parcel No. 826B. An additional report updated to the date of deposit, December 4, 2003, opines the value to be \$36,300.00 for Parcel No. 226A and \$1,900.00 for Parcel No. 826B or a total of \$38,200.00 for the two parcels.

The property owners' appraisal report was prepared by Calhoun, Dreggors & Associates, Inc., which opined full compensation as of the date of deposit, December 4, 2003, as \$73,600.00 for Parcel No. 226A and \$2,900.00 for Parcel No. 826B or a total of \$76,500.00 for the two parcels.

B. Parcel Nos. 226C/826A

The County's original report dated January 4, 2003, was prepared by The Spivey Group, Inc. and reported full compensation to be \$4,400.00, allocated \$100.00 for Parcel No. 226C and \$4,300.00 for Parcel No. 826A. The appraisal was updated on October 9, 2003, for the order of take hearing and opined the values to be \$100.00 for Parcel No. 226C and \$7,600.00 for Parcel No. 826A. An additional report updated to the date of deposit, December 4, 2003, opines the value to be \$100.00 for Parcel No. 226C and \$7,800.00 for Parcel 826A or a total of \$7,900.00 for the two parcels.

The property owners' appraisal report was prepared by Calhoun, Dreggors & Associates, Inc., which opined full compensation as of the date of deposit, December 4, 2003, as \$23,500.00 for Parcel No. 226C and \$7,800.00 for Parcel No. 826A or a total of \$31,300.00 for the two parcels.

C. Parcel Nos. 226B/226D and 826C/826D

The County's original report dated March 7, 2003, was prepared by The Spivey Group, Inc., and reported full compensation to be \$149,800.00 allocated \$137,800.00 for Parcel Nos. 226B/226D and \$12,000.00 for Parcel Nos. 826C/826D. The appraisal was updated on October 16, 2003, for the order of take hearing and opined the values to be \$139,900.00 for Parcel Nos. 226B/226D and \$13,100.00 for Parcel Nos. 826C/826D. An additional report updated to the date of deposit, December 4, 2003, opines the value to be \$152,500.00 for Parcel Nos. 226B/226D and \$14,300.00 for Parcel Nos. 826C/826D or a total of \$166,800.00 for the four parcels.

The property owners' appraisal report was prepared by Calhoun, Dreggors & Associates, Inc., which opined full compensation as of the date of deposit, December 4, 2003, as \$291,200.00 for Parcel Nos. 226B/226D and \$8,000.00 for Parcel Nos. 826C/826D or a total of \$299,200.00.

V BINDING OFFER/NEGOTIATION/ISSUES

The County's initial written offers approved by the BCC on April 22, 2003, were as follows:

\$ 32,200.00 for Parcel Nos. 226A/826B
\$ 4,400.00 for Parcel Nos. 226C/826A and 821C
\$149,800.00 for Parcel Nos. 226B/226D and 826C/826D
\$186,400.00 aggregate total

The final value for all the parcels arrived at by the County totaled \$212,900.00 or \$26,500.00 greater than its initial written offer. Conversely, the appraiser for the property owner's final value for all the parcels equaled \$407,000.00. The property owner, a developer, planned to testify to full compensation of over \$500,000.00.

The primary reason for the difference in the parties' opinions as to compensation was the owner's claim for severance damages to the remainder parcels. Parcel No. 226 severed the parent tract, leaving an east and west remainder. The owner claimed that the western remainder had been significantly damaged due to the reduced size and irregular, triangle shape. The owner further claimed damages due to the elevated grade of the new road – 3 to 5 feet above the remainder parcels, alleging that it would incur significant costs to fill dirt to develop the remainder parcels.

The other factors considered in the settlement were 1) the case was five years old and significant interest expense could be incurred as to the portion of the verdict above our initial offer; and 2) the expense of six to eight expert witnesses to try the case.

VI ATTORNEY'S FEES AND COSTS

A. Attorney's Fees. The \$360,000.00 settlement includes interest. It was a matter of debate between the parties how much of the settlement amount should be allocated to interest because of the change in interest rates during the period of this case. The monetary benefit by which statutory attorney fees are determined does not include interest, only the amount of the owner's direct compensation above the first written offer. The parties agreed on \$48,000.00 for statutory attorney's fees because it reflects a compromise on how much of the compensation should be allocated to interest.

The owner agreed to settle its claim for costs for Parcel Nos. 226A/826B, 226B/226D/826C/826D and 226C/826A at the amount of \$85,000.00. The break down is as follows:

A.	Survey	\$11,212.50
B.	Appraisal	\$31,423.00

C.	Engineering	\$20,513.67
D.	Planning	\$17,184.50
E.	Court Reporter	\$ 3,719.80
G.	Exhibits	\$ 714.36
H.	Miscellaneous	<u>\$ 232.17</u>

Total Cost reimbursements \$85,000.00

VII COST AVOIDANCE

By this settlement, the County avoids all additional costs associated with litigation.

VIII RECOMMENDATION

County staff recommends that the BCC approve this pre-trial settlement at \$493,000.00 that includes land value, severance damage, statutory interest, statutory attorney's fees, expert fees and cost reimbursements.

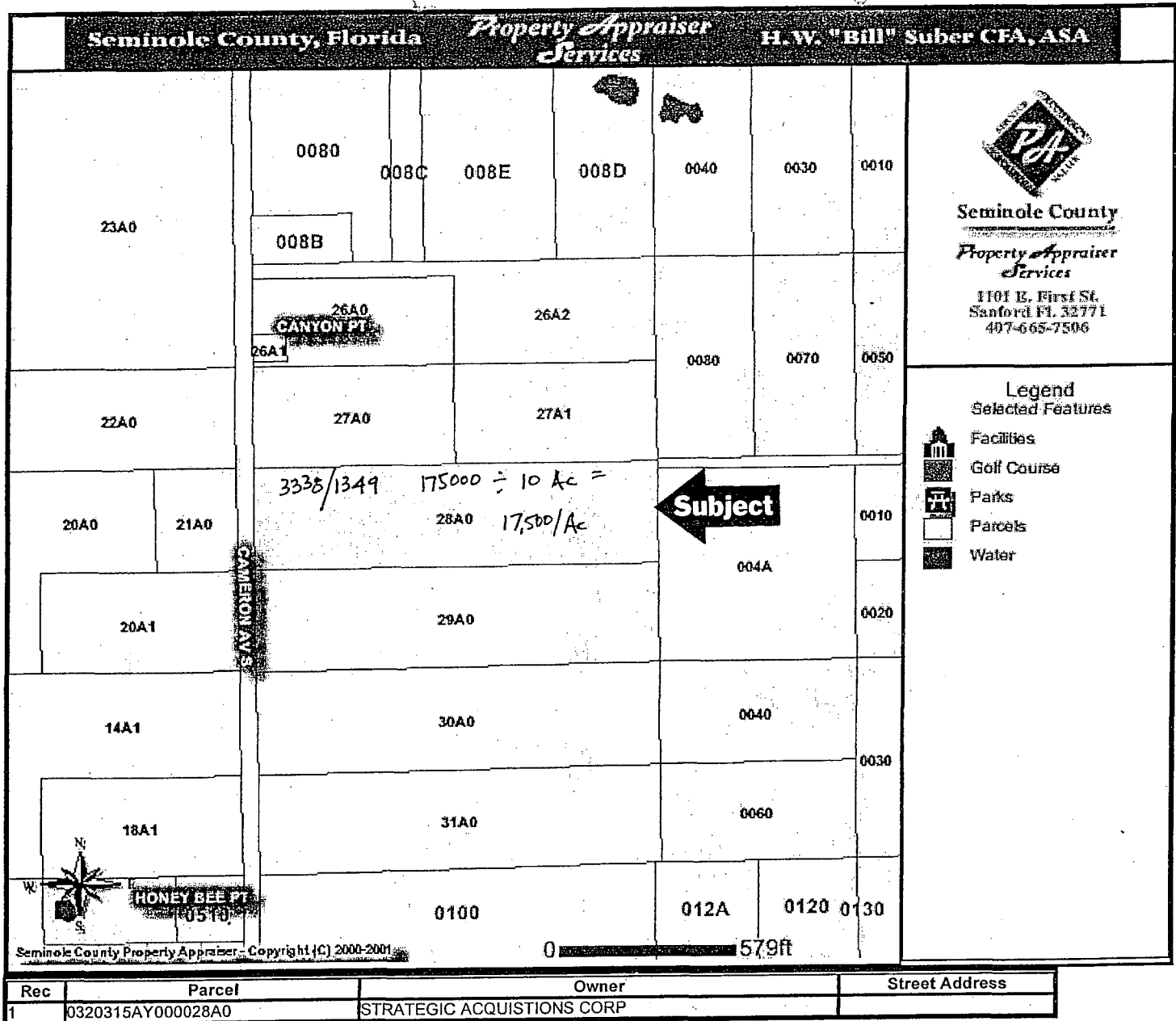
MGM/dre

Attachments:

Composite Exhibit A - Location Maps

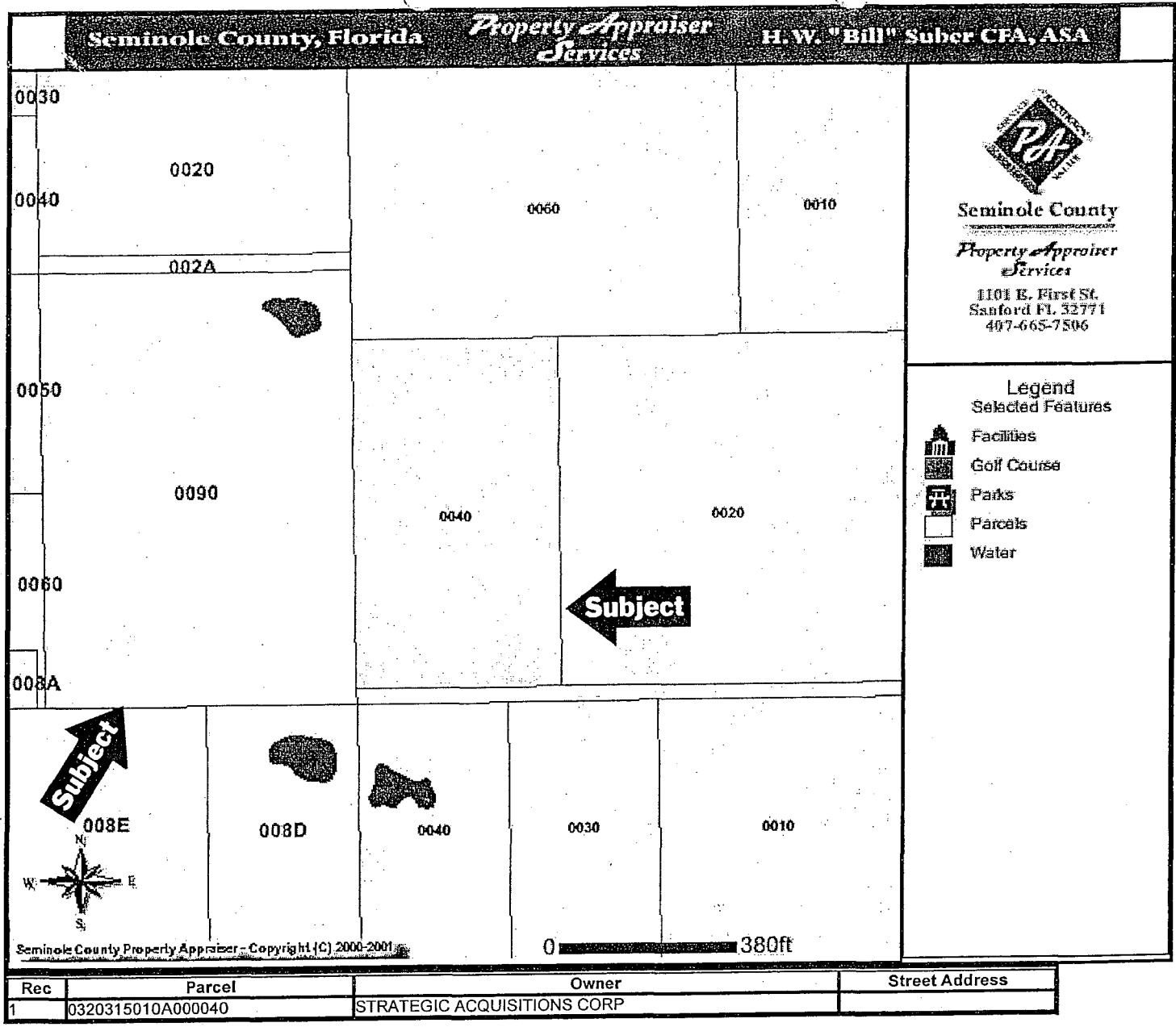
Composite Exhibit B - Sketches

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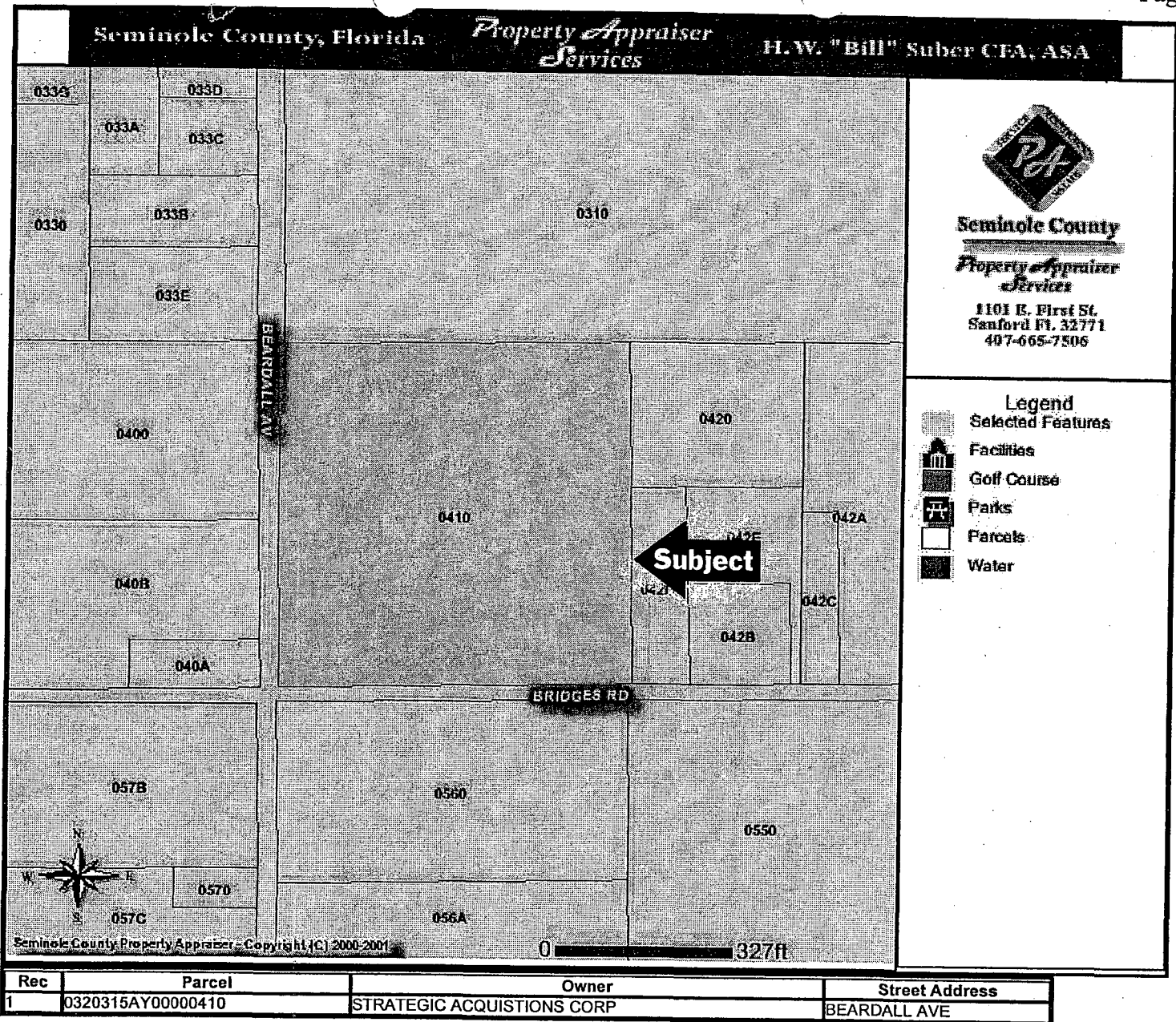
226A | 826B

EXHIBIT "A"



2268D
826 CD

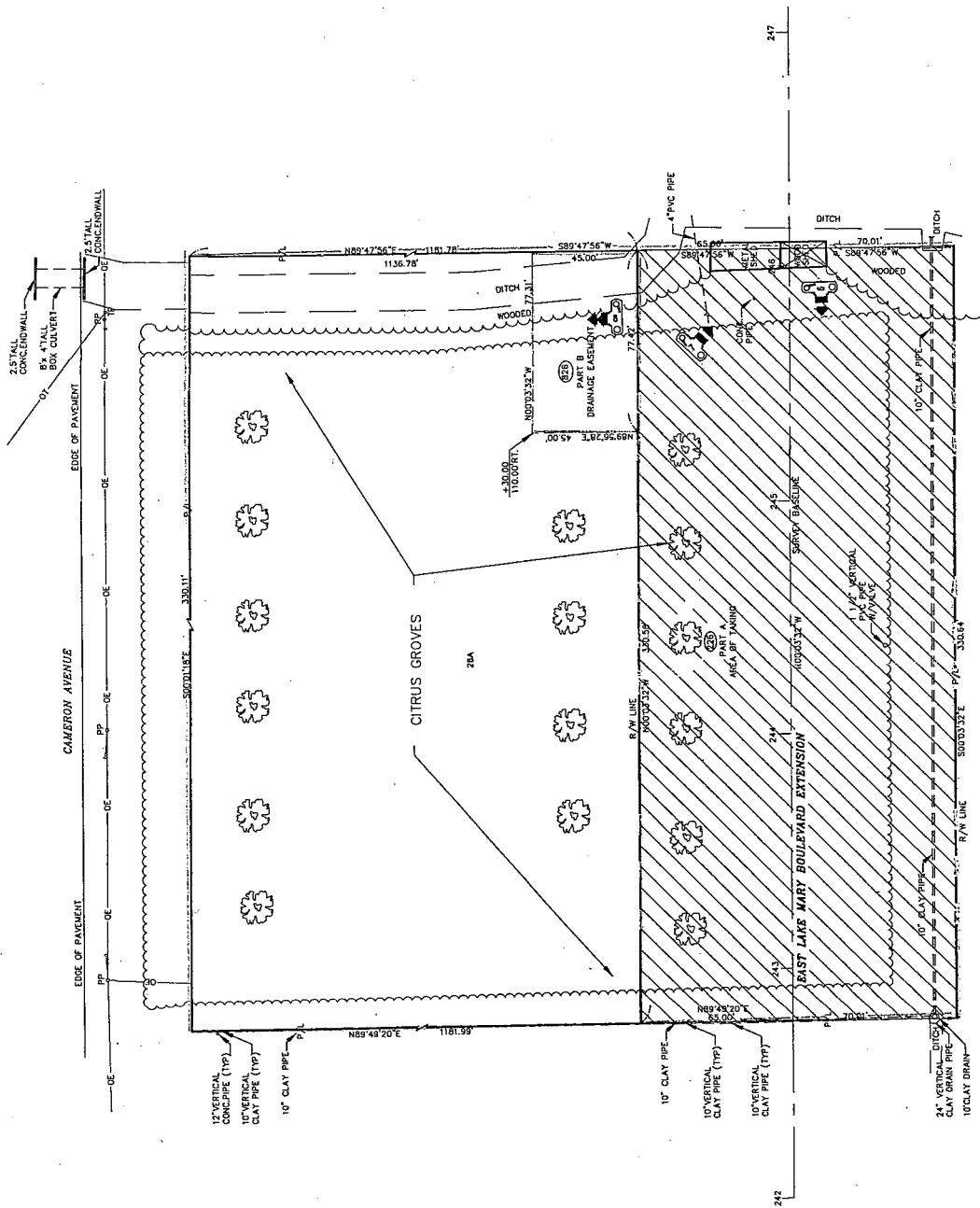
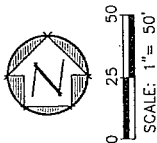
EXHIBIT "A"



226C/826A

EXHIBIT "A"

EAST LAKE MARY BOULEVARD EXTENSION
SEMINOLE COUNTY, FLORIDA
PARCEL 226A - SKETCH OF SURVEY
AREA OF PARENT TRACT = 9.9877 ACRES
AREA OF TAKING = 1.0247 ACRES
AREA OF DRAINAGE EASEMENT 826 "B" = 5.4816 S/F
AREA OF REMAINDER = 8.9630 ACRES



LEGEND

- O— UTILITY POLE AND GUY ANCHOR
- PP POWER POLE
- WAL WATER METER
- WAL WATER METER
- R/W R/W
- BP BROKEN SCALE
- EP EDGE OF PAVEMENT
- FN&C FOUND NAIL AND CAP
- BFP BACKFLOW PREVENTER
- WV WATER VALVE
- D/W DRIVEWAY
- MES MITERED END SECTION
- SV LANDSCAPED AREA
- SV SEWER FORCEMAIN VALVE
- CO SEWER CLEAN OUT
- LP LIGHT POLE
- PB PULL BOX
- S.W. SIDEWALK
- SSP SIGNAL SPAN POLE
- TP TELEPHONE POLE
- OT OVERHEAD TELEPHONE
- SRVC TRAFFIC SERVICE CABINET
- NHD DRAINAGE MANHOLE
- MHS SANITARY SEWER MANHOLE
- MW MONITORING WELL
- SPRINKLER HEAD
- ELEO ELECTRIC OUTLET
- SHP SHARED UTILITY POLE

EXHIBIT "B"

NOTES:

THIS IS A SKETCH ONLY. THIS IS NOT A BOUNDARY SURVEY.
THE PURPOSE OF THIS SKETCH IS TO AID IN THE APPRAISAL OF THE SUBJECT PARCEL.

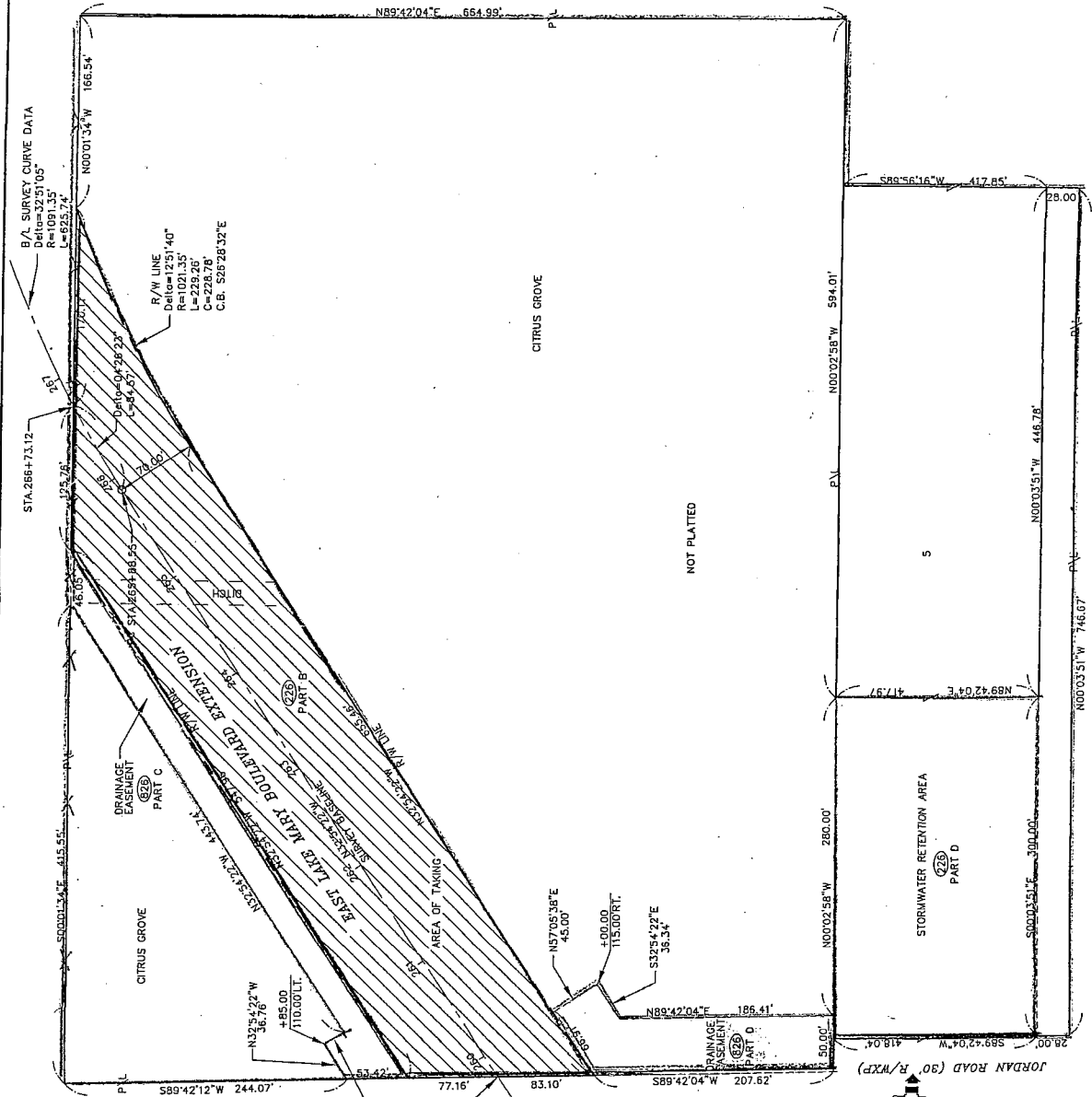
ALL BOUNDARY INFORMATION AND CALCULATIONS ARE BASED ON A SPECIFIC PURPOSE MAP AND CONTROL SURVEY, EAST LAKE MARY BOULEVARD EXTENSION, FROM OHIO AVENUE TO SILVER LAKE DRIVE, COUNTY PROJECT: PS-0137

KEY	DATE	REVISIONS	SKETCH DATE:	FIELD BOOK/PAGE:	PROJECT	CLIENT	SHEET NO.
	12/19/02	CHANGES PER BOB SIMMONS	10/28/02	FB 54/17	EAST LAKE MARY BOULEVARD EXTENSION - SEMINOLE COUNTY - PARCEL 226A	THE SPIVEY GROUP, INC.	2 of 3
					SKETCH OF SURVEY	JOB NO.	TS02226A
					PARENT TRACT AND AREA OF TAKING		
						PHONE: (850) 868-7330	
						MOBILE: (850) 831-7115	
						FAX: (850) 894-9923	
						OFFICE ADDRESS:	
						715 N. CALHOUN ST., STE. 100	
						TALLAHASSEE, FLORIDA 32303	

EAST LAKE MARY BOULEVARD EXTENSION
SEMINOLE COUNTY, FLORIDA
PARCEL 226B - SKETCH OF PARCEL
AREA OF PARENT TRACT = 21.7632 ACRES
AREA OF TAKING 226B = 2.1768 ACRES
AREA OF REMAINDER = 19.5864 ACRES
AREA OF REMAINDER LEFT = 15.1160 ACRES
AREA OF TAKING 826 "C" = 13.8769 S/F
AREA OF TAKING 826 "D" = 12.1733 S/F

LEGEND

- UTILITY POLE AND GUY ANCHOR
- PP POWER POLE
- SCN SIGN
- WM WATER METER
- R/W RIGHT OF WAY
- ECOP BROKEN SCALE
- FN&C EDGE OF PAVEMENT
- BEP FOUND NAIL AND CAP
- BEP BACKFLOW PREVENTER
- W WATER VALVE
- D/W DRIVEWAY
- MES MITERED END SECTION
- LANDSCAPED AREA
- SV SEWER FORCEMAIN VALVE
- CD SEWER CLEAN OUT
- FP FIRE HYDRANT
- LP LIGHT POLE
- PB PULL BOX
- S.W. SIDEWALK
- SSP SIGNAL SPAN POLE
- TP TELEPHONE POLE
- OT OVER-HEAD TELEPHONE
- SRVC TRAFFIC SERVICE CABINET
- MHD DRAINAGE MANHOLE
- MHS SANITARY SEWER MANHOLE
- NW MONITORING WELL
- SPRINKLER HEAD
- ELEO ELECTRIC OUTLET
- SHR SHARED UTILITY POLE



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THE APPRAISAL OF THE SUBJECT PARCEL
ALL BOUNDARY INFORMATION AND CALCULATIONS
ARE BASED ON A SPECIFIC PURPOSE MAP AND
CONTROL SURVEY, EAST LAKE MARY BOULEVARD
EXTENSION, FROM OHIO AVENUE TO SILVER LAKE
DRIVE, COUNTY PROJECT: PS-0137

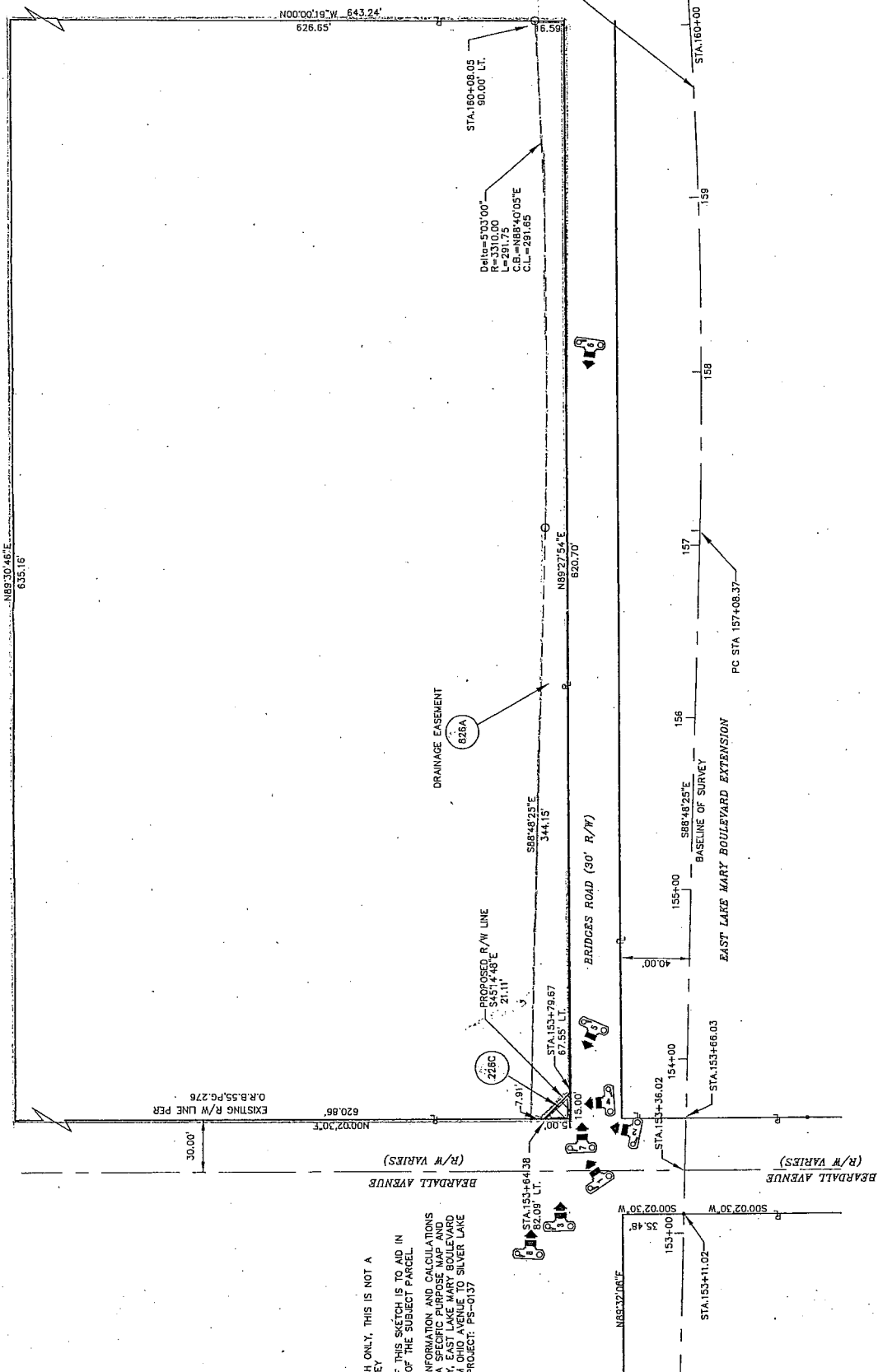
CLIENT	THE SPIVEY GROUP, INC.
PROJECT	EAST LAKE MARY BOULEVARD EXTENSION - SEMINOLE COUNTY - PARCEL 226B
SHEET NO.	TSG002226BD
DATE	11/22/02
FIELD BOOK/PAGE	N/A
SKETCH DATE	11/22/02
REVISIONS	
KEY	
DATE	
PROJECT	EAST LAKE MARY BOULEVARD EXTENSION - SEMINOLE COUNTY - PARCEL 226B
SHEET TITLE	SKETCH OF PARCEL PARENT TRACT AND AREA OF TAKING
PHONE (850) 666-7330	
FAX (850) 666-9883	
OFFICE ADDRESS	715 N. CALHAN ST. STE. 100 TALLAHASSEE, FLORIDA 32303
CORNERSTONE LAND SURVEYING, INC.	

EXHIBIT "B"

EAST LAKE MARY BOULEVARD EXTENSION
SEMINOLE COUNTY, FLORIDA
PARCELS 226C & 826A - SKETCH OF PARCEL
TOTAL AREA PARCEL 226C = 9.3687 ACRES
DRAINAGE EASEMENT 826A = 9605.6 SF / 0.2205 ACRES
AREA OF TAKING = 112.5 SF
AREA OF REMAINDER = 9.3841 ACRES



0 30 60
SCALE: 1"=60'



NOTES:
THIS IS A SKETCH ONLY, THIS IS NOT A
BOUNDARY SURVEY
THE PURPOSE OF THIS SKETCH IS TO AID IN
THE APPRAISAL OF THE SUBJECT PARCEL
ALL BOUNDARY INFORMATION AND CALCULATIONS
ARE BASED ON A SPECIFIC PURPOSE MAP AND
CONTROL SURVEY, EAST LAKE MARY BOULEVARD
EXTENSION, FROM OHIO AVENUE TO SILVER LAKE
URVE. COUNTY PROJECT: PS-0137

REV	DATE	REVISIONS	PROJECT	CLIENT	SHEET NO.
			EAST LAKE MARY BOULEVARD EXTENSION - SEMINOLE COUNTY - PARCEL 226C	THE SPIVEY GROUP, INC.	2 of 3
			SKETCH OF PARCELS	TSC02226C	
			PARENT TRACT & AREA OF TAKING		
			FIELD BOOK/PAGE	PHONE: (850) 668-7130	
			NA	MOBILE: (850) 933-7715	
			SKETCH DATE	FAX: (850) 891-9593	
			10/7/02		
				OFFICE ADDRESS	
				715 CHALKIN ST., STE 100	
				INDIAN CREEK, FLORIDA 32133	

EXHIBIT "B"